

1 Kristin A. Schuler-Hintz, Esq. SBN 7171  
2 Sherry A. Moore, Esq. SBN 11215  
3 **McCarthy & Holthus, LLP**  
4 9510 West Sahara Avenue, Suite 200  
5 Las Vegas, NV 89117  
Phone (877) 369-6122  
Fax (866) 339-5691

6 Attorney for: Federal National Mortgage Association, Inc., and Seterus, Inc.

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8 UNITED STATES DISTRICT COURT

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10 DISTRICT OF NEVADA

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12 In re: ) BK Case No. 14-14200-mkn  
13 ) Chapter 13 (Dismissed)  
14 Aydin T Oner, )  
Debtor. )  
15 Aydin T. Oner ) Adv. Proceeding No.: 14-01112-mkn  
Plaintiff, )  
16 vs. ) Case no.: 2:14-cv-01604-JCM  
CitiMortgage, Inc., and National Default )  
Servicing Corporation, et al., ) **AMENDED APPELLEES FEDERAL**  
Defendants. ) **NATIONAL MORTGAGE ASSOCIATION,**  
17 Aydin T Oner ) **INC.'S AND SETERUS, INC.'S**  
Appellant, ) **OPPOSITION TO APPELLANT'S**  
18 ) **MOTION TO HOLD APPEAL IN**  
vs. ) **ABEYANCE**  
CitiMortgage, Inc., National Default Servicing )  
Corporation; Federal National Mortgage )  
Association and Seterus, Inc., and Ocwen Loan )  
Servicing, Inc. )  
Appellees. )  
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25 Comes now, Sherry A. Moore, Esq., of the law firm of McCarthy & Holthus, LLP, as  
26 counsel of record for Appellees Federal National Mortgage Association, Inc. and Seterus, Inc.,  
27 and hereby opposes the Appellant's Motion to Hold Appeal in Abeyance dated February 10,  
28 2015 ("Motion for Abeyance").  
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## **ARGUMENT**

The Appellant's for Abeyance is without merit and must be denied in its entirety.

Appellant has engaged in a campaign of dilatory conduct through the state/federal court system(s) since 2012. As alleged in the underlying case (Bankruptcy Adversary no. 14-01112-MKN), specifically in the factual allegations of Appellees' Federal National Mortgage Assoc. ("FNMA") and Seterus, Inc. Motion to Dismiss, Appellant had prejudicially delayed FNMA/Seterus in its foreclosure action since 2012. After substantive scrutiny in the 8<sup>th</sup> Judicial District Court and the granting of summary judgment in favor of FNMA/Seterus so as to schedule a "sheriff's sale" of the subject real property in May 2013, the Appellant engaged in a scheme of delay of said sale by two consecutive Chapter 13 bankruptcy filings on the eve of sale (both dismissed for failure to prosecute), and a bankruptcy adversary matter (the dismissal of which is the subject of the current appeal). Furthermore, the adversary matter was similarly dismissed on or around September 23, 2014. On December 11, 2014, after proper notice thereof, the subject property was sold at public auction. See attached **Exhibit "A."** On January 20, 2015, Appellant filed a Motion to Extend Time to File Brief, which this Court granted on January 28, 2015, providing a February 9, 2015 deadline for Appellant's opening brief. See **Docket # 19.** Despite the sale of the subject property, Appellant's failure to obtain an injunction preventing the sale and to file his opening brief by the February 9, 2015 deadline, Appellant now files the instant Motion for Abeyance.

As has been pointed out previously and repeatedly, the merits of the instant appeal lack substance and appear to be yet another example of the scheme of delay. In this new Motion, Appellant continues to allege without any factual or legal support that FNMA/Seterus, as well as Judge Nakagawa and this Court, has caused him harm without formally giving FNMA/Seterus

formal notice as to the nature of his claims by filing his opening brief. After failing to meet the February 9, 2015 deadline to file his brief, Appellant is now, curiously, contending that filing a brief would be “a waste of time” (see **Docket # 20, page 4**) because “the current state of this case has become an exercise of futility if it’s allowed to continue on its present course” (see **Id., page 2**). On these points, FNMA/Seterus could not agree with Appellant more. However, despite Appellant’s admission that the current appeal has no merit, Appellant appears to be requesting a stay in this appeal to pursue his claims, whatever they may possibly be, in the dismissed adversary action. In essence, Appellant is attempting to have his cake and eat it, too: Appellant wishes that this appeal be stayed indefinitely while pursuing his now-dismissed adversary action. Given Appellant’s conduct in repeatedly delaying FNMA/Seterus from proceeding with its foreclosure action, which has since been completed, and failing to meet the deadline to file an opening brief providing notice of the nature of his claims so FNMA/Seterus can respond in kind, equity would not be served by granting Appellant’s request. Accordingly, the questionable merits of the Appellant’s appeal do not support granting Appellant’s motion and therefore the Motion for Abeyance should be denied.

## CONCLUSION

For all the reasons stated above, Appellees FNMA/Seterus request that this Court deny the Appellant's Motion for Abeyance in its entirety.

DATED: February 18, 2015

/s/ Sherry A. Moore  
Sherry A. Moore, Esq.  
Nevada Bar No. 11215  
McCarthy & Holthus, LLP  
9510 W. Sahara Ave. #200  
Las Vegas, NV 89117  
Attorney for Federal National Mortga

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3                   **CERTIFICATE OF MAILING**  
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5                   I HEREBY CERTIFY that I am an employee of McCarthy & Holthus, LLP; and that on  
6 February 18, 2015, I served the foregoing AMENDED APPELLEES FEDERAL NATIONAL  
7 MORTGAGE ASSOCIATION, INC.'S and SETERUS, INC.'S OPPOSITION TO  
8 APPELLANT'S MOTION

9                   TO HOLD APPEAL IN ABEYANCE.

10                  to the following:

12                  Via United States First Class Mail

13                  Aydin T Oner  
14                  3733 Misty Falls Street  
15                  Las Vegas, NV 89129

16                  Raymond Jereza, Esq.  
17                  Wright Finlay & Zak, LLP  
18                  5532 S. Fort Apache Road, Ste 110  
19                  Las Vegas, NV 89148

20                  \_\_\_\_\_  
21                  /s/Joni Rispalje  
22                  An Employee of McCarthy & Holthus, LLP

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